Exhibit 5

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Case No. 1:20-CV-05589-GBD-DCF

BRIAN JOSEPH GREF,
Plaintiff,
V.

AMERICAN INTERNATIONAL INDUSTRIES, Individually and as successor-in-interest for the CLUBMAN BRAND, and to THE NESLEMUR COMPANY and PINAUD COMPANY, et al.,
Defendants.
_____/

REMOTE VIDEOTAPED DEPOSITION OF
MURRAY M. FINKELSTEIN, MD PhD
Pages 1 - 199

Wednesday, June 22, 2022
9:01 a.m. - 3:09 p.m.

REPORTED BY: Beverly Bourlier James, RPR, CRR, FPR

Job Number: 5279955

Page 66

A. Yes.
Q. Introduction says that, "Pulmonary deposition, clearance, alteration (leaching and splitting) and translocation of mineral fibers play important roles in determining the sites and severity of disease caused by these fibers. In this report, we review some of our recent findings on the fate of inhaled chrysotile asbestos in the lungs of rats."
Do you recall ever reading that before, Doctor?
A. No.
Q. Let me ask you whether you agree with this conclusion. It says that, "In our model, inhaled asbestos fibers are deposited largely at first alveolar duct bifurcations, many of which are within a few hundred microns of visceral pleura. The deposited fibers include many greater than 16 microns in length and less than 1 micron in diameter within the range considered most pathogenic."
Do you have any reason to disagree with those conclusions?
A. No.
Q. "These fibers are cleared -- " then it continues, "These fibers are cleared slowly, if at all. Long chrysotile fibers undergo longitudinal

Page 67

splitting in the lung so that their number actually increases over time, possibly increasing their potential for biologic effects. Even though extensive splitting of chrysotile fibers occurs, we have not observed substantial leaching of the magnesium from chrysotile fibers up to 30 days after deposition. Translocation of chrysotile from deep parenchymal regions toward the subpleural regions of the lung does not occur in our model. Extensive translocation, however, may not be necessary for the development of asbestos-related pleural disease."
Any reason to disagree with any of those conclusions, Doctor?
A. No.
Q. Do you know the maximum length of a fiber that a lung macrophage can engulf?
A. I do not.
Q. Do you know there are those that studied and published on that?
A. I imagine it's been investigated, yes.
Q. Now, one of the articles you cite is from Dr. Emory and others where they look at lung pathology. Do you recall that?
A. Yes.
Q. Are you familiar with an article by

Page 68

Dr. Moline and Gordon from 2019-2020 purporting to report on 33 cases of people that they said were only exposed to asbestos potentially from cosmetic talc?
A. Yes.
Q. Is there any reason why you don't rely on that article?
A. I do; I rely on it for the results of the tissue analysis.
Q. Is the Moline article cited in your paper?
A. I don't know. Probably not.
Q. In the -- so, for those two articles, were they -- it's your understanding that -- first of all, Drs. Moline and Emory both have served as experts for Plaintiffs in asbestos and talc litigation?
A. I know only about Dr. Moline and she has, yes.
Q. And she's their expert witness -- do you know Dr. Holstein?
A. I know of Dr. Holstein.
Q. Dr. Moline has been an expert witness basically since she started practicing medicine. Do you know that?
MR. DiMUZIO: Object to the form.
THE WITNESS: No, I don't.

Page 69

BY MR. THACKSTON:
Q. And, so, for these articles that you -- did you read Dr. Moline's article in the journal in which it was published?
A. Yes.
Q. Do you know what journal that was?
A. I can look it up.
Why don't you make a suggestion and I'll see --
Q. I think it's the Journal of Occupational and Environmental Medicine.
A. Okay. That sounds plausible.
Q. Okay. Close enough.
You don't have any information about the peer-reviewed process, if any, of that particular article, do you?
A. Of course not; it's confidential.
Q. And would you agree that peer review can be very thorough or it can be very shoddy?
MR. DiMUZIO: Objection, form.
THE WITNESS: That seems like a statement which would be difficult to investigate.
BY MR. THACKSTON:
Q. When you read Dr. Moline's article -- first of all, she makes statements -- she makes

A. Well, that's what you get when you use SAED.
Q. Okay. Well, do you know what diffraction patterns are?
A. Yes.
Q. Diffraction patterns don't tell you peaks of elements, do they?
A. No, but the diffraction pattern is composed of peaks of elements.
Q. Do you know what lookup chart they used to see if the diffraction patterns matched the diffraction patterns of certain minerals?
A. I do not.
Q. And do you know whether the lookup charts include all minerals, diffraction patterns for all minerals or just diffraction patterns for certain amphiboles?
A. I don't know.
MR. DiMUZIO: Objection to form.
THE WITNESS: You'd have to Dr. Compton. I don't know.
BY MR. THACKSTON:
Q. I think you have said before that you are aware that when you look at the elemental peaks for different substances, that you cannot distinguish

talc from anthophyllite by looking at their elemental peak; do you recall that?
A. No.
Q. Would you agree that the EDS profile would be the same for talc and anthophyllite?
A. No.
Q. Do you know how it would be different?
A. No. I don't do that work.
Q. Okay. So you don't know one way or the other whether they would be the same or different?
MR. DiMUZIO: Objection to form.
BY MR. THACKSTON:
Q. Is that a yes?
A. That is correct; I don't do that work.
MR. THACKSTON: Okay. Well, subject to our exhibits making sense, I think that's all I have, Doctor. I just would like to be able to get back on the record and make sure that we've got the exhibits all numbered properly, if we don't. So I wouldn't close the record just yet, but we can go off the video record, if that's okay with you.
MR. DiMUZIO: Yeah. Just again, we're going to reserve read and sign and I guess that's it.

MR. THACKSTON: Doctor, nice to meet you. Thank you very much. I'm glad you enjoyed Chapel Hill; always good to go back.
THE WITNESS: Well, you know, the weather outside today here in Toronto is sort of Chapel Hill-like.
THE VIDEOGRAPHER: The time is 3:09. We're going off the video record.
(The deposition was concluded at approximately 3:09 p.m.)

I have read the foregoing transcript of my testimony and find it to be true and accurate to the best of my knowledge and belief.

_____
MURRAY M. FINKELSTEIN, MD PhD

Sworn to and Subscribed before me this _____ day of _____, 20____

_____
Notary Public